

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Brenda Carter, LaGrand, Hood, Stone, Tyrone Carter, Weiss, Aiyash, Hope, Witwer, O'Neal, Anthony, Kuppa, Cynthia Johnson, Bezotte, Huizenga, Rendon, Maddock, Wozniak, Meerman and Yancey

ENROLLED HOUSE BILL No. 5278

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 7 (MCL 722.627), as amended by 2018 PA 56.

The People of the State of Michigan enact:

Sec. 7. (1) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster records.

(b) A police agency or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court for the purposes of determining the suitability of a person as a minor's guardian or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIII of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other person in a foster care or adoptive home who is directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency must disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and any other person in the home who is directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court must disclose this information to the applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.

(n) The children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.932.

(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.

(q) A citizen review panel established by the department. Access under this subdivision is limited to information the department determines necessary for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.

(t) A local friend of the court office.

(u) A department employee actively representing himself or herself in a disciplinary action, a labor union representative who is actively representing a department employee in a disciplinary action, or an arbitrator or

administrative law judge conducting a hearing involving a department employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. Information disclosed under this subdivision must be returned not later than 10 days after the conclusion of the action or hearing. A recipient must not receive further disclosures under this subdivision while he or she retains disclosed information beyond the deadline specified for return.

(v) A federal or state governmental agency that may, by law, conduct an audit or similar review of the department's activities under this act.

(w) A children's advocacy center in the course of providing services to a child alleged to have been the victim of child abuse or child neglect or to that child's family.

(x) A tribal representative, agency, or organization, including a multidisciplinary team, authorized by the Indian child's tribe, to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, parent, or Indian custodian. As used in this subdivision, "active efforts", "Indian child", "Indian child's tribe", "Indian custodian", and "parent" mean those terms as defined in section 3 of chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(y) A child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for employment or an employee of a child caring institution to determine suitability of the applicant or employee for initial or continued employment. The child caring institution must disclose the information to the applicant or employee.

(2) Subject to subsection (4), a person or entity to whom information described in subsection (1) is disclosed shall make the information available only to a person or entity described in subsection (1). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(3) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prohibit the department from releasing reports of convictions of crimes related to child abuse or child neglect.

(4) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (1) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

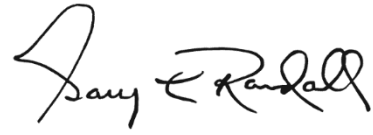
(6) Notwithstanding subsection (1), information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care organization licensing under 1973 PA 116, MCL 722.111 to 722.128, or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by either the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of subsection (5) applies.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.

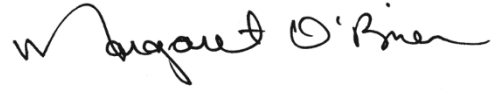
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

- (a) House Bill No. 5276.
- (b) House Bill No. 5277.
- (c) House Bill No. 5275.
- (d) House Bill No. 5274.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor